

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE**

CLARK MADISON KENT, et al.,)	
Plaintiffs,)	
)	
v.)	No. 3:05-CV-259
)	No. 3:05-CV-307
KNOX COUNTY, TENNESSEE, et al.,)	Phillips/Shirley
Defendants.)	

MEMORANDUM AND ORDER

This is an action brought by plaintiffs for damages caused by violations of plaintiff Clark Kent's state and federal constitutional rights. The plaintiffs have sued defendant Hutchison in both his official capacity and also in his individual capacity for alleged failure and neglect to perform the duties of the office of Sheriff of Knox County, and as principal on his official bond.

Defendant Timothy Hutchison has moved to dismiss the suit filed against him in his official capacity. In support of his motion, defendant Hutchison states that inasmuch as Knox County has been sued by the plaintiffs, suit against him in his official capacity is redundant and superfluous. In support of the motion, Hutchison relies on United States Magistrate Judge Bruce Guyton's decision in the case of *Sulfridge v. Huff*, Civil Action No. 3:05-cv-188, in which Judge Guyton granted a motion to strike Hutchison as a defendant in his official capacity. However, after reviewing additional information submitted in support of the Sulfridge plaintiffs' motion for reconsideration, Judge Guyton found that as the plaintiffs had asserted a claim against Hutchison in his individual capacity as well as claims

against him in his official capacity, the plaintiffs were not required to strike any references in the complaint to defendant Hutchison as previously ordered.

Defendant Hutchison is correct when he asserts that a suit against him in his official capacity is actually a suit against Knox County, itself. See *Hafer v. Melo*, 502 U.S. 21, 25 (1991); *Leach v. Shelby Co. Sheriff*, 891 F.2d 1241, 1245 (6th Cir. 1989). However, the complaint herein alleges claims against Hutchison both in his individual and official capacities. The court has reviewed the pleadings and the relevant case law and can find no reason at this time to dismiss defendant Hutchison as a defendant. Therefore, defendant Hutchison's motion to dismiss the suit against him in his official capacity [Doc. 13] is **DENIED**.

ENTER:

s/ Thomas W. Phillips
United States District Judge